

REMARKS/ARGUMENTS

Claims 8, 9, and 23-40 are active. Support for the amendment to Claims 8, 9 and 37-40 is found in the paragraph bridging pages 7-8. No new matter is believed to have been added.

Applicants thank the Examiner for indicating that Claims 9 and 29-34 are in a condition for allowance (see page 12 of the Official Action).

In view of the amendment and remarks submitted herein, Applicants request allowance of all pending claims, i.e., Claims 8, 9 and 23-36.

The rejection of Claims 23, 29-32 and 36 under 35 USC 112, second paragraph is traversed. The phrase "freeze-shattering" is described in the specification on page 6, lines 10-23. As stated therein, it means that the aqueous gel is frozen with a refrigerant such as liquid nitrogen and then the aqueous gel is crushed. Preferred freezing temperatures and resultant particle sizes are also described. Accordingly, the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity See MPEP § 2173.02.

Withdrawal of this rejection is requested.

The rejection of Claims 8 and 23 under 35 USC 103(a) in view of JP '118 is traversed because JP '118 does not describe the coating with hydrophobic particles as defined in the claims submitted herein.

First, JP 118 describes microcapsule materials in which the coating is cross-linked or graft polymerized to the surface of the core (see page 8 of JP '118). In contrast, in the claimed invention, the gel cores are coated with the hydrophobic material. Coating compared to cross-linking or graft polymerization imparts a number of advantages neither described nor

suggested by the cited prior art, e.g. when the coated gel particles of the present invention are ruptured on the surface of the skin, unlike the particles of the cited prior art, they would not leave an unacceptable residue of broken capsules, for example, on the surface of the skin.

The Examiner has pointed to the disclosure on page 9, where it appears that between the core and polymer, an additional coating of inorganic fine powder is applied. It should be noted, however, that of those materials listed on page 9 of the JP '118 disclosure none of them are hydrophilic particles treated with a hydrophobicizing agent as defined in the claims. This makes sense because these materials that JP '118 discloses are simply materials provided between the actual coating (i.e., shell-forming resin) and the core and is unlike the coating of the present claims.

Notably, as discussed in the specification on page 3, the use of hydrophobic particles that coat the core in the manner that is claimed provides water-containing powders having excellent production stability, storage stability as well as maintaining the characteristics of releasing water when pressure is applied.

Accordingly, withdrawal of the rejection based on JP '118 is requested.

The rejection of Claims 9 and 29-36 under 35 USC 103(a) in view of JP '125 is traversed because JP '125 does not describe the aqueous gel cores nor the coating with hydrophobic particles as defined in the claims submitted herein.

As described in JP '125, the core or substance is liquid, agglomerates or cannot keep its powdery from near room temperature (see page 4, last paragraph). The Examples of JP '118 describe methylene blue colored water, starch paste, butter and acrylic adhesives of the core material. While on page 8 of JP '125, there appears to be a suggestion to thicken or gel the microcapsule core affecting its viscosity, JP '125 does not describe gallants selected from agar, gelatin, carageenan, gellan gum, and magnesium sodium silicate. There is no support

for the allegation on page 5 of the Action that one would have simply added one or more of these specific gallants to a core because there is none, i.e., JP '125 provides no suggestion for the types of thickeners. Moreover, as discussed in the specification the selection of the particular gellants defined in the claims, one can easily form a powder by high speed shearing and freeze-shattering thereby obtaining powders with improved storage stability (see page 5, lines 19-23 of the specification).

In addition, JP '125 does not describe the hydrophilic particles treated with a hydrophobicizing agent as set forth in the claims coating the aqueous gel core with the gallants as claimed and further none of the materials listed in JP '125 are the same as those defined in Claims 37-40. Notably, as discussed in the specification on page 3, the use of hydrophobic particles that coat the core in the manner that is claimed provides water-containing powders having excellent production stability, storage stability as well as maintaining the characteristics of releasing water when pressure is applied.

Withdrawal of this rejection is requested.

There are several rejections related to various sets of claims repeated from Office Actions previously issued but which now address claims that have been cancelled. It would appear that the only rejections remaining of record are to Claims 8, 23-28, 34 and 35 in view of Reyes and Deubzer and also combined with Munteanu.

As explained previously, Reyes describes a process whereby hydrophilic polymers are encapsulated in hydrophobic material through a series of steps ending in the graft polymerization of the hydrophobic material to the hydrophilic material "To thereby trap the material to be encapsulated within the coating" (see FIG. 1 of Reyes). As already noted by the Office, Reyes does not describe a cosmetic.

Deubzer describes preparing microcapsules with organopolysiloxane walls which is produced by hydrolysis and polycondensation (see col. 1, lines 43-49 of Deubzer). The problem addressed by Deubzer is to more easily prepare these organopolysiloxane shells with cheaper materials (see col. 1, lines 36-39). Deubzer also describes at col. 6, lines 15-25 that “the microcapsules may be used for all applications in which microcapsules have also been used” and among the generic listing of applications, cosmetics is included.

However, the prior art describes microcapsule materials in which the coating is cross-linked or graft polymerized to the surface of the core. In contrast, in the claimed invention, the gel cores are simply coated with the hydrophobic material. Coating compared to cross-linking or graft polymerization imparts a number of advantages neither described nor suggested by the cited prior art, e.g. when the coated gel particles of the present invention are ruptured on the surface of the skin, unlike the particles of the cited prior art, they would not leave an unacceptable residue of broken capsules, for example, on the surface of the skin.

In the Office Action, the Examiner provides response to certain arguments (pages 12-14) however, and most notably absent is acknowledgement of the argument previously submitted—coating (claims) vs. crosslinked coating (prior art). As both Reyes and Deubzer describe different materials, in combination, from the coated aqueous gel cores as claimed, Applicants request that the rejection based on the combination of Reyes and Deubzer be withdrawn.

As to the addition of Muneanu, the Office’s reliance on this publication when combined with Reyes and Deubzer is not any closer at teaching all of the limitations of the claims. Notably, while Muneanu describes fragrances, there is nothing in Muneanu which allows one to modify the explicit teachings of Reyes and Deubzer to achieve the claimed powder composition, i.e., in the claimed invention, the gel cores are simply coated with the hydrophobic material.

Moreover, there is nothing in any of these three cited publications which suggest to one to use the are hydrophilic particles treated with a hydrophobicizing agent as set forth in the claims in the arrangement of coating an aqueous gel core including at least one of the specified gellants defined in the claims.

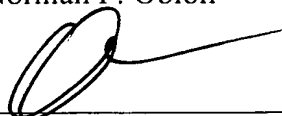
Once again, as discussed in the specification on page 3, the use of hydrophobic particles that coat the core in the manner that is claimed provides water-containing powders having excellent production stability, storage stability as well as maintaining the characteristics of releasing water when pressure is applied.

Withdrawal of the rejection based on the combination of Muneanu, Reyes and Deubzer is requested.

Applicants request a Notice of Allowance.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Daniel J. Pereira, Ph.D.
Registration No. 45,518

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)